

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

IN RE:	§	
	§	
DIXIE FARMS, INC.,	§	
Debtor.	§	
_____	§	
	§	
TIFTON BANKING COMPANY,	§	CASE NO. 09-71040 jtl
Movant,	§	CHAPTER 12
	§	
VS.	§	
	§	
DIXIE FARMS, INC.,	§	
Debtor,	§	

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OF
BANKRUPTCY AND WAIVER OF 30 DAY REQUIREMENT
SET FORTH IN 11 U.S.C. §362(e)**

COMES NOW TIFTON BANKING COMPANY, movant and a creditor herein,
and files its motion for relief from the automatic stay of bankruptcy showing to the Court the
following:

1.

On or about July 2, 2009, debtor filed a Chapter 12 proceeding in bankruptcy being
bankruptcy petition number 09-71040 JTL in the Bankruptcy Court for the Middle District of
Georgia, Valdosta Division.

2.

Flowers Brothers Produce Company, LLC. is indebted to movant in excess of
\$1,371,867.55 pursuant to its execution of a note in favor of movant. A copy of said note is attached
hereto as "**Exhibit A**" and incorporated herein by reference.

3.

Movant also holds a security interest in certain real property pursuant to a deed to secure debt executed by Dixie Farms, Inc. in favor of movant on September 11, 2006, and recorded in Deed Book 1297, pages 172-175, and modified at Deed Book 1391, pages 317-315 public records of Tift County, Georgia. A copy of said documents are attached hereto as **“Exhibit B”** and **“Exhibit C”** and incorporated herein by reference. Said real estate is described as **173 acres, more or less, in Land Lots 341 and 350 of the 6th Land District of Tift County, Georgia and identified as the Harris Farm on William Gibbs Road, Tift County, Georgia.**

4.

Movant also holds a security interest in a commercial equipment known as **one 8” deep well bearing serial #20048 and one five tower center pivot bearing serial #19805 along with irrigation fixtures (drip pipe)** located on the 173 acre Harris Farm described above in Tift County, Georgia by virtue of a certain security agreement and UCC Financing Statement executed by Dixie Farms, Inc. A copy of said security instruments is attached hereto as **“Exhibit D”** and incorporated herein by reference.

5.

Flowers Brothers Produce Company, LLC. filed a Chapter 7 petition on March 23 2010, Case No. 10-70439 and movant has filed a companion motion for relief from the automatic stay in the said case. The collateral set forth on **Exhibits B, C and D** belonging to Dixie Farms, Inc. is cross-collateralized with the loans of Flowers Brothers Produce Company, LLC.

6.

This court has jurisdiction over this matter pursuant to 28 U.S.C. §1334, as referred to in 28 U.S.C. §157, and this proceeding constitutes a “core proceeding” within the meaning of the

statute.

7.

This motion is made pursuant to Bankruptcy Rule 4001, governing motions for relief from stay and in conformity with Bankruptcy Rule 9014.

8.

The debtor has not made the payments to movant nor has debtor liquidated the assets as set forth in its plan of reorganization.

9.

Relief is sought pursuant to 11 U.S.C. §362(d)(1) for cause as Movant's interest is not adequately protected.

10.

The claim of movant presently exceeds the value of the property held by movant as collateral and the debtor has no equity in the subject property and, furthermore, said property is not necessary for an effective reorganization as defined in 11 U.S.C. §362(d)(2).

11.

Movant is now and will continue to suffer irreparable harm with continuation of the §362 automatic stay and appropriate relief should be granted to movant.

12.

Movant waives the 30 day requirement for hearing set forth in §362(e).

WHEREFORE movant prays for an order granting movant relief from the automatic stay as set forth in 11 U.S.C. §362; movant further prays that said relief from said stay be for cause as described in 11 U.S.C. §362 (d)(1); and, movant further prays for an order granting movant such other and further relief as is just and appropriate.

SPURLIN & McCORVEY

ADDRESS:
224 N. Central Ave
P. O. Box 7566
Tifton, Georgia 31793
(229) 391-9106

by: /s/ John C. Spurlin
JOHN C. SPURLIN
Georgia State Bar No. 673230

attorneys for movant
Tifton Banking Company

CERTIFICATE OF SERVICE

GEORGIA, TIFT COUNTY

I hereby certify that the within and foregoing **Motion for Relief from the Automatic Stay of Bankruptcy** was this day served upon the following via electronic transmission:

Wesley J. Boyer, Attorney for Debtor;

Walter W. Kelley, Chapter 12 Trustee

U.S. Trustee, MAC 12

and served upon the following by mailing a true and correct copy thereof under sufficient postage to assure prompt delivery:

**Dixie Farms, Inc.
159 William Gibbs Road
Tifton, GA 31793**

This 12th day of April, 2010.

/s/ John C. Spurlin
of counsel for movant
Tifton Banking Company